

HOUSE BILL NO. 1132

Introduced by

Representatives Porter, Headland, Howe, Kempenich, Louser, Mock, Nathe, Sanford,
Strinden

Senators Bekkedahl, Hogue, Wardner

1 A BILL for an Act to create and enact a new section to chapter 6-09.4 of the North Dakota
2 Century Code, relating to bonded debt repayments; to amend and reenact sections 6-09.4-06
3 and 6-09.4-10 of the North Dakota Century Code, relating to borrowing and lending authority of
4 the public finance authority and reserve funds associated with bonds; to provide an
5 appropriation; to provide a bond issue limit; to provide an exemption; and to declare an
6 emergency.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 6-09.4-06 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **6-09.4-06. Lending and borrowing powers generally.**

11 1. The public finance authority may lend money to political subdivisions or other
12 contracting parties through the purchase or holding of municipal securities which, in
13 the opinion of the attorney general, are properly eligible for purchase or holding by the
14 public finance authority under this chapter or chapter 40-57 and for purposes of the
15 public finance authority's capital financing program the principal amount of any one
16 issue does not exceed five hundred thousand dollars. However, the public finance
17 authority may lend money to political subdivisions through the purchase of securities
18 issued by the political subdivisions through the capital financing program without
19 regard to the principal amount of the bonds issued, if the industrial commission
20 approves a resolution that authorizes the public finance authority to purchase the
21 securities. The capital financing program authorizing resolution must state that the
22 industrial commission has determined that private bond markets will not be responsive
23 to the needs of the issuing political subdivision concerning the securities or, if it

1 appears that the securities can be sold through private bond markets without the
2 involvement of the public finance authority, the authorizing resolution must state
3 reasons for the public finance authority's involvement in the bond issue. The public
4 finance authority may hold such municipal securities for any length of time it finds to
5 be necessary. The public finance authority, for the purposes authorized by this chapter
6 or chapter 40-57, may issue its bonds payable solely from the revenues available to
7 the public finance authority which are authorized or pledged for payment of public
8 finance authority obligations, and to otherwise assist political subdivisions or other
9 contracting parties as provided in this chapter or chapter 40-57.

10 2. The public finance authority may lend money to the Bank of North Dakota under terms
11 and conditions requiring the Bank to use the proceeds to make loans for agricultural
12 improvements that qualify for assistance under the revolving loan fund program
13 established by chapter 61-28.2.

14 3. The public finance authority may transfer money to the Bank of North Dakota for
15 allocations to infrastructure projects and programs. Bonds issued for these purposes
16 are payable in each biennium solely from amounts the legislative assembly may
17 appropriate for debt service for any biennium or from a reserve fund established for
18 the bonds. This section may not be construed to require the state to appropriate funds
19 sufficient to make debt service payments with respect to the bonds or to replenish a
20 related reserve fund. The bonds are not a debt of the Bank of North Dakota or the
21 state. The full faith, credit, and taxing powers of the state are not pledged to the
22 payment of the bonds. As of the date appropriated funds and reserves are not
23 sufficient to pay debt service on the bonds, the obligation of the public finance
24 authority with respect to the bonds must terminate, and the bonds are no longer
25 outstanding. In addition to providing funds for the transfers, the public finance authority
26 may use the bond proceeds to pay the costs of issuance of the bonds and establish a
27 reserve fund for the bonds.

28 4. Bonds of the public finance authority issued under this chapter or chapter 40-57 are
29 not in any way a debt or liability of the state and do not constitute a loan of the credit of
30 the state or create any debt or debts, liability or liabilities, on behalf of the state, or
31 constitute a pledge of the faith and credit of the state, but all such bonds are payable

1 solely from revenues pledged or available for their payment as authorized in this
2 chapter. Each bond must contain on its face a statement to the effect that the public
3 finance authority is obligated to pay such principal or interest, and redemption
4 premium, if any, and that neither the faith and credit nor the taxing power of the state
5 is pledged to the payment of the principal of or the interest on such bonds. Specific
6 funds pledged to fulfill the public finance authority's obligations are obligations of the
7 public finance authority.

8 5. All expenses incurred in carrying out the purposes of this chapter or chapter 40-57 are
9 payable solely from revenues or funds provided or to be provided under this chapter or
10 chapter 40-57 and nothing in this chapter may be construed to authorize the public
11 finance authority to incur any indebtedness or liability on behalf of or payable by the
12 state.

13 **SECTION 2. AMENDMENT.** Section 6-09.4-10 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **6-09.4-10. Reserve fund.**

16 1. The public finance authority shall establish and maintain a reserve fund in which there
17 must be deposited all moneys appropriated by the state for the purpose of the fund, all
18 proceeds of bonds required to be deposited therein by terms of any contract between
19 the public finance authority and its bondholders or any resolution of the public finance
20 authority with respect to the proceeds of bonds, any other moneys or funds of the
21 public finance authority which it determines to deposit therein, any contractual right to
22 the receipt of moneys by the public finance authority for the purpose of the fund,
23 including a letter of credit or similar instrument, and any other moneys made available
24 to the public finance authority only for the purposes of the fund from any other source
25 or sources. Moneys in the reserve fund must be held and applied solely to the
26 payment of the interest on and the principal of bonds and sinking fund payments as
27 the same become due and payable and for the retirement of bonds, including payment
28 of any redemption premium required to be paid when any bonds are redeemed or
29 retired prior to maturity. Moneys in the reserve fund may not be withdrawn therefrom if
30 the withdrawal would reduce the amount in the reserve fund to an amount less than
31 the required debt service reserve, except for payment of interest then due and payable

1 on bonds and the principal of bonds then maturing and payable and sinking fund
2 payments and for the retirement of bonds in accordance with the terms of any contract
3 between the public finance authority and its bondholders and for the payments on
4 account of which interest or principal or sinking fund payments or retirement of bonds,
5 other moneys of the public finance authority are not then available in accordance with
6 the terms of the contract. The required debt service reserve must be an aggregate
7 amount equal to at least the largest amount of money required by the terms of all
8 contracts between the public finance authority and its bondholders to be raised in the
9 then current or any succeeding calendar year for the payment of interest on and
10 maturing principal of outstanding bonds, and sinking fund payments required by the
11 terms of any contracts to sinking funds established for the payment or redemption of
12 the bonds.

13 2. If the establishment of the reserve fund for an issue or the maintenance of an existing
14 reserve fund at a required level under this section would necessitate the investment of
15 all or any portion of a new reserve fund or all or any portion of an existing reserve fund
16 at a restricted yield, because to not restrict the yield may cause the bonds to be
17 taxable under the Internal Revenue Code, then at the discretion of the public finance
18 authority no reserve fund need be established prior to the issuance of bonds or the
19 reserve fund need not be funded to the levels required by other subsections of this
20 section or an existing reserve fund may be reduced.

21 3. No bonds may be issued by the public finance authority unless there is in the reserve
22 fund the required debt service reserve for all bonds then issued and outstanding and
23 the bonds to be issued. Nothing in this chapter prevents or precludes the public
24 finance authority from satisfying the foregoing requirement by depositing so much of
25 the proceeds of the bonds to be issued, upon their issuance, as is needed to achieve
26 the required debt service reserve. The public finance authority may at any time issue
27 its bonds or notes for the purpose of providing any amount necessary to increase the
28 amount in the reserve fund to the required debt service reserve, or to meet such
29 higher or additional reserve as may be fixed by the public finance authority with
30 respect to such fund.

- 1 4. In order to assure the maintenance of the required debt service reserve, there shall be
2 appropriated by the legislative assembly and paid to the public finance authority for
3 deposit in the reserve fund, such sum, if any, as shall be certified by the industrial
4 commission as necessary to restore the reserve fund to an amount equal to the
5 required debt service reserve. However, the commission may approve a resolution for
6 the issuance of bonds, as provided by section 6-09.4-06, which states in substance
7 that this subsection is not applicable to the required debt service reserve for bonds
8 issued under that resolution.
- 9 5. If the maturity of a series of bonds of the public finance authority is three years or less
10 from the date of issuance of the bonds, the public finance authority may determine that
11 no reserve fund need be established for that respective series of bonds. If such a
12 determination is made, holders of that respective series of bonds may have no interest
13 in or claim on existing reserve funds established for the security of the holders of
14 previously issued public finance authority bonds, and may have no interest in or claim
15 on reserve funds established for the holders of subsequent issues of bonds of the
16 public finance authority.
- 17 6. The industrial commission may determine ~~that~~ this section is inapplicable in whole or
18 in part for bonds issued under ~~section~~;
19 a. Section 6-09.4-06;
20 b. Section 6-09.4-24; or ~~under the~~
21 c. The public finance authority's state revolving fund program.

22 **SECTION 3.** A new section to chapter 6-09.4 of the North Dakota Century Code is created
23 and enacted as follows:

24 **Debt service requirements - Bonds for infrastructure projects and programs.**

25 Each biennium, the public finance authority shall request from the legislative assembly an
26 appropriation from the general fund, derived from legacy fund earnings, Bank of North Dakota
27 profits, or other sources to meet the debt service requirements for bonds issued by the authority
28 for allocations to infrastructure projects and programs.

29 **SECTION 4. PUBLIC FINANCE AUTHORITY - BOND ISSUE LIMITATION - BANK OF**
30 **NORTH DAKOTA - APPROPRIATION - EXEMPTION.**

- 1 1. Pursuant to the bonding authority under section 6-09.4-06, the public finance authority
2 may issue up to \$1,114,525,000 of bonds, but not in an amount that would cause the
3 repayments to exceed \$145,000,000 per biennium, for transfer to the Bank of North
4 Dakota for allocations to infrastructure projects and programs during the period
5 beginning with the effective date of this Act and ending June 30, 2023.
- 6 2. The term of any bonds issued under this section may not exceed twenty years with
7 repayments beginning after June 30, 2023. The public finance authority shall make
8 available up to five percent of the bonds for sale directly to North Dakota residents and
9 financial institutions.
- 10 3. After payment of any issuance costs or any transfers to a reserve fund,
11 \$1,114,525,000 from the bond proceeds issued by the public finance authority is
12 appropriated to the Bank of North Dakota for allocations to infrastructure projects and
13 programs for the period beginning with the effective date of this Act and ending
14 June 30, 2023, as follows:
 - 15 a. \$250,000,000 for the Fargo diversion project, Red River valley water supply
16 project, and Mouse River flood control project;
 - 17 b. \$50,000,000 to the water infrastructure revolving loan fund to provide loans for
18 water supply projects;
 - 19 c. \$75,000,000 to the infrastructure revolving loan fund under section 6-09-49;
 - 20 d. \$50,000,000 to the legacy development and innovation fund;
 - 21 e. \$60,000,000 to the department of transportation for bridge projects;
 - 22 f. \$100,000,000 to the department of transportation for highway corridor projects;
 - 23 g. \$22,600,000 to the department of parks and recreation for state, county, and city
24 park infrastructure, of which \$12,600,000 is available for state park infrastructure
25 and \$10,000,000 is available as grants to counties, cities, and park districts for
26 park infrastructure;
 - 27 h. \$60,525,000 to the municipal infrastructure fund, of which \$55,525,000 is
28 designated for distributions to non-oil-producing cities with a population of at least
29 five hundred based on the formula under subsection 3 of section 57-51.1-07.7
30 and \$5,000,000 is designated for grants to non-oil-producing cities with a
31 population of less than five hundred based on applications submitted to the state

- 1 treasurer in a competitive grant process without regard to the formula under
2 subsection 3 of section 57-51.1-07.7;
- 3 i. \$80,400,000 to the county and township infrastructure fund, which is designated
4 for distributions to non-oil-producing counties under subsection 4 of section
5 57-51.1-07.7;
- 6 j. \$10,000,000 to the department of transportation for township road projects
7 associated with roads inundated by water;
- 8 k. \$20,000,000 to the airport infrastructure fund;
- 9 l. \$50,000,000 to North Dakota state university for an agriculture products
10 development center including a northern crops institute project;
- 11 m. \$115,000,000 to the department of career and technical education to provide
12 grants for buildings and equipment, of which \$35,000,000 is designated for a
13 polytechnic program at Bismarck state college, including multipurpose
14 classrooms and space for an auditorium or theater, \$20,000,000 is designated for
15 the development of science experiments, including space needed for the
16 experiments, at a children's science center in the city where the state capitol is
17 located, \$15,000,000 is designated for a collaborative career and technical
18 education program involving Dickinson public school district and Dickinson state
19 university, \$10,000,000 is designated for a career and technical education
20 program located in Minot, \$10,000,000 is designated for a career and technical
21 education program located in Watford City, \$2,000,000 is designated for a career
22 and technical education program located at Lake Region state college, and the
23 remaining \$23,000,000 is designated for other career and technical education
24 programs located in the state with a limit of up to \$2,500,000 per program per
25 grant round;
- 26 n. \$10,000,000 for tier II capital building funds at the institutions identified in
27 section 29 of chapter 3 of the 2019 Session Laws with the requirement for
28 institutions to provide one dollar of matching funds from operations or other
29 sources, not including extraordinary repair funding or tier III capital building fund
30 moneys, for each dollar received under this subsection;

- 1 o. \$9,000,000 for tier III capital building funds at the institutions identified in
- 2 section 30 of chapter 3 of the 2019 Session Laws with the requirement for
- 3 institutions to provide two dollars of matching funds from operations or other
- 4 sources, not including extraordinary repair funding or tier II capital building fund
- 5 moneys, for each dollar received under this subsection;
- 6 p. \$3,000,000 to Dickinson state university for a Pulver Hall project;
- 7 q. \$3,000,000 to Dakota college at Bottineau for an old main renovation project;
- 8 r. \$140,000,000 to the department of human services for a state hospital project;
- 9 s. \$4,000,000 for a space command initiative and related technical programs at the
- 10 University of North Dakota for equipment, renovation, a sensitive compartmental
- 11 information facility, and other expenses; and
- 12 t. \$2,000,000 for a Cavalier County economic development program.
- 13 4. The Bank of North Dakota shall maintain a separate account for any accumulated
- 14 interest earned on the bond proceeds prior to the allocations. The accumulated
- 15 interest must be available for appropriation by the legislative assembly for any future
- 16 bond repayments.
- 17 5. Notwithstanding the provisions of sections 57-51.1-07.7 and 57-51.1-07.8 relating to
- 18 the timing of distributions from the municipal infrastructure fund and the county and
- 19 township infrastructure fund, the state treasurer shall distribute any moneys in the
- 20 funds within forty days after the funds receive deposits of bond proceeds under this
- 21 section.

22 **SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.